

of the cases" in which the ban would be relevant at all, see Casey 112 S. Ct. at 2830 (discussing method of constitutional analysis of abortion restrictions), its operation would be inconsistent with this constitutional standard. It has been reported that doctors performing this procedure believe it often poses fewer medical risks for women in the late stages of pregnancy.<sup>1</sup> If this is true, then it is likely that in a "large fraction" of the very cases in which the procedure actually is used, it is the technique most protective of the woman's health. Accordingly, a prohibition on the method, in the absence of an adequate exception covering such cases, impermissibly would require women to "bear an increased medical risk" in order to obtain an abortion.

H.R. 1833 would provide for an affirmative defense to criminal prosecution or civil claims when a partial-birth abortion is both (a) necessary to save the life of the woman, and (b) the only method of abortion that would serve that purpose. This provision will not cure the bill's constitutional defects. First, as discussed above, the provision is too narrow in scope, as it fails to reach cases in which a woman's health is at issue. Second, the provision does not actually except even life-threatening pregnancies from the statutory bar. Cf. Casey, 112 S. Ct. at 2804 (even in post-viability period, abortion restrictions must "contain [] exceptions for pregnancies which endanger a woman's life or health"). Instead, the provision would require a physician facing criminal charges to carry the burden of proving, by a preponderance of the evidence, both that pregnancy threatened the life of the woman and that the method in question was the only one that could save the woman's life. By exposing physicians to the risk of criminal sanction regardless of the circumstances under which they perform the outlawed procedure, the statute undoubtedly would have a chilling effect on physicians' willingness to perform even those abortions necessary to save women's lives.

Sincerely,

ANDREW FOIS,  
Assistant Attorney General.

Mr. SPECTER. Mr. President, on a matter of this enormous import, where we are talking about the meaning of life, as articulated by the Senator from Indiana earlier, we ought to have a hearing in a limited period of time. We ought not to rely upon hearsay statements that are brought to the floor of the Senate, where we do not have an opportunity to question and elicit more detailed information.

We ought not allow "Nightline," as urged by some on the floor of this body, to substitute for deliberations by the U.S. Senate. This is a matter which could have been brought to the floor at any earlier time, and certainly for the world's greatest deliberative body, it is not asking too much to have a very brief period of time—some 19 days—for

the Judiciary Committee to hold hearings, report this matter back, and then the Senate could express its will in accordance with Senate procedures.

The PRESIDING OFFICER. The controlled time has expired.

Mr. SPECTER. Has all time expired on the amendment, Mr. President?

The PRESIDING OFFICER. The time for controlled debate has expired.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SMITH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

Mrs. BOXER. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the call of the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mrs. BOXER. Mr. President, I object.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Objection is heard. The clerk will continue to call the roll.

The bill clerk continued with the call of the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded, that I be allowed to speak for 5 minutes as if in morning business, and that the business of the Senate will then return to a quorum call and to its present state.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Mr. President, reserving the right to object—I will not object—I want to make sure from my friend that morning business is nothing about the pending bill.

Mr. PRESSLER. It is nothing about the pending bill.

Mrs. BOXER. I shall not object.

The PRESIDING OFFICER. Without objection, it is so ordered, and the Senator from South Dakota [Mr. PRESSLER] is recognized to speak as if in morning business for 5 minutes.

#### AIR SERVICE OPPORTUNITIES IN CONTINENTAL EUROPE

Mr. PRESSLER. Mr. President, I rise today to discuss existing and emerging air service opportunities on the European Continent for U.S. passenger and cargo carriers. These opportunities include not only serving destinations within Europe, but also points beyond such as the Middle East and Asia-Pacific markets. As the British continue to refuse to open their skies to our carriers, developments in other countries represent alternatives that are increasingly attractive and are taking on greater significance.

Unfortunately, recent negotiations with the United Kingdom seeking to liberalize our air service relationship with that country have hit an impasse. At this time, it is unclear whether that

impasse is insurmountable. As is often the case with the British, the primary sticking point is our request for greater access to London Heathrow Airport, the main hub of British Airways. Access to Heathrow is particularly important to our carriers since it is an international gateway airport offering connecting service opportunities beyond the United Kingdom to markets virtually worldwide.

Another key and often overlooked area of disagreement is our request for full liberalization of air cargo services between and, importantly, beyond our two countries. Currently, the ability of our cargo carriers to serve the United Kingdom, load additional freight there, and fly on to other countries is severely limited by the United States-United Kingdom bilateral aviation agreement. British negotiators continue to reject our requests for fully liberalized air cargo opportunities, despite a March 1994 recommendation by the House of Commons Transport Committee to that effect. What does all this mean?

The answer to that question is contained in the insights of one aviation authority who wrote recently "[a]irlines and passengers are free agents. If extra capacity is not developed at Heathrow, the airport will not be able to satisfy demand and airlines will expand their business at continental airports." The author added "if airlines are denied the opportunity to grow at Heathrow, many will choose Paris, Frankfurt, or Amsterdam."

Mr. President, this is not rhetoric. It is not a threat by U.S. interests designed to gain negotiating leverage. To the contrary, the author of these quotes is BAA plc, the British company that owns and operates Heathrow as well as other United Kingdom airports. BAA is very perceptive. Obviously, BAA recognizes that in today's global economy the long-term consequence of protecting one's air service market amounts to little more than the stimulation of competitive opportunities elsewhere. One need only look across the English Channel to continental Europe to confirm that already is taking place.

There was a time when geographic factors and the limited range of commercial aircraft made the United Kingdom the international gateway of necessity for United States carriers serving Europe and beyond. Times have changed. New generation long-range aircraft have made the option of overflying the United Kingdom viable from both an operational and economic standpoint. Simply put, if the British do not want the business of our air carriers, United States carriers can and will look to the European Continent for new gateway airport opportunities. Today, I wish to discuss a few of these existing, emerging, and potential air service opportunities.

First, there is tremendous growth in international passenger traffic at Amsterdam's Schiphol Airport. This is

<sup>1</sup> See *Hearings on H.R. 1833 Before the Subcomm. on the Constitution of the House Judiciary Comm.* (June 23, 1995) (statement of James T. McMahon, M.D., Medical Director, Eve Surgical Centers) (procedure shown to be safest surgical alternative late in pregnancy); *id.* (June 15, 1995) (statement of J. Cortland Robinson, M.D., M.P.H.) (same); see also Tamar Lewin, *Wider Impact is Foreseen for Bill to Ban Type of Abortion*, The New York Times, November 6, 1995, at B7; Diane M. Gianelli, *Shock-Tactic Ads Target Late-Term Abortion Procedure*, American Medical News, July 5, 1993, at 3; Karen Hosler, *Rare Abortion Method Is New Weapon in Debate*, Baltimore Sun, June 17, 1995, at 2A.

due, in large part, to the successful alliance between Northwest Airlines and KLM Royal Dutch Airlines, and clearly demonstrates BAA's prediction already is coming to pass. How did it happen? Recognizing the significant mutual benefits that result from free trade among nations, in 1992 the Netherlands signed an open-skies agreement with the United States. That agreement permits the marketplace, not Government restrictions, to determine air service between the two countries. The results speak very loudly.

Between 1992 and 1994, total passenger traffic between the United States and the Netherlands grew an astounding 56 percent while total passenger traffic between the United States and the United Kingdom grew just 7.5 percent. In 1992, 18.6 million international passengers arrived and departed from Schiphol. By 1994, that number grew to 22.9 million passengers—an increase of more than 23 percent. It is anticipated this growth will continue with nearly 28 million international passengers using Schiphol by 2000. What does this illustrate? Among other things, it clearly demonstrates Schiphol is drawing passenger traffic originating in the United States away from United Kingdom airports, particularly Heathrow.

Cargo opportunities also are booming at Schiphol. In 1992, nearly 725,000 metric tons of international cargo were loaded and unloaded at the airport. By 1994, that number grew to 838,127 metric tons, an increase of nearly 12 percent. By the year 2000, it is estimated 1.2 million metric tons of international air cargo will pass through Schiphol.

Consistent with that forward-looking view of aviation relations, the Dutch also have in place a long-term airport growth plan to enable Schiphol to accommodate the rapidly expanding traffic the United States-Netherlands open skies has spurred. The goal is no less than making Schiphol one of the major European hubs for intercontinental passenger and cargo traffic. By the year 2015, that plan calls for Schiphol to have the capacity to serve up to approximately 56 million passengers and 4 million metric tons of cargo annually.

Mr. President, the Dutch clearly want the business of United States carriers. Based on the growth of international passenger and cargo traffic at Schiphol, it is clear U.S. carriers are responding to this message.

Second, our recently completed nine-nation European open-skies initiative should stimulate additional new continental gateway airport opportunities. The nine European countries with which the United States recently signed open-skies agreements are Austria, Belgium, Denmark, Finland, Iceland, Luxembourg, Norway, Sweden, and Switzerland.

Brussels Zaventem Airport illustrates my point well. Even before the United States-Belgium open-skies agreement was signed a few months

ago, international passenger and cargo growth at Brussels Airport was impressive. For instance, between 1993 and 1994 international passenger traffic grew to more than 11 million, a 12-percent increase. During the same period, international freight passing through Brussels Airport rose a remarkable 24 percent to more than 380,568 metric tons.

No question, Brussels Airport is emerging as an important European gateway airport for intercontinental traffic. The recent open-skies agreement should cause existing growth to accelerate. To ensure this comes to pass, the Belgians recently expanded Brussels Airport to put it in a position to fully capitalize on new service opportunities. Earlier this year, a new terminal opened at Brussels Airport which has more than doubled the airport's capacity from 10.5 to 21 million passengers annually. This terminal expansion initiative, coupled with significant runway capacity, will make Brussels very attractive to U.S. carriers.

Indeed, a number of U.S. passenger carriers already provide nonstop service from the United States to Brussels. Delta Air Lines, through its code-sharing alliance with the Belgian national carrier Sabena, also provides nonstop service from key United States gateway cities including New York, Boston, and Chicago.

One clear indication the United States-Belgium open-skies agreement will be a catalyst for increased transatlantic service from the United States to Belgium appeared in a recently filed application by Delta seeking antitrust immunity for its alliances with Sabena as well as Swissair and Austrian Airlines. In that filing, Delta indicated it plans no less than to use the Delta-Sabena alliance to make Brussels Airport one of a multihub network in continental Europe. No wonder, Brussels Airport is regarded as Europe's only true hub-and-spoke operation.

Third, a potentially tremendous opportunity for United States carriers may soon emerge in Germany. The United States and Germany commenced air service negotiations in July which I very much hope will result in an open-skies agreement. It is my understanding those talks are progressing well.

What would an open-skies agreement with Germany mean for United States carriers? In short, it would mean significant new air service opportunities for our carriers between the United States and Germany. Equally important, German airports would provide well-situated gateway opportunities for our carriers to serve points beyond Germany such as the booming Asia-Pacific market.

One such opportunity is the airport in Frankfurt which already is being used by some U.S. carriers as an alternative to Heathrow. Frankfurt-Main Airport's ideal location in Europe already has fueled tremendous growth for that facility. As a matter of fact, it

already ranks as the second busiest airport in Europe next to Heathrow. Last year, for instance, 27.6 million international passengers passed through Frankfurt as well as more than 1.2 million metric tons of air freight. Each total represented nearly a 10-percent increase over 1993 traffic levels.

Frankfurt Airport is not resting on its laurels. In fact, the Germans have ambitious plans to ensure Frankfurt Airport can meet rapidly expanding demand. Last year, a new terminal complex was completed which enables the airport to handle an additional 12 million passengers annually. In addition, the runways at Frankfurt Airport already have the capacity to handle nearly as many aircraft movements per hour as those at Heathrow.

By the year 2010, forecasts indicate Frankfurt Airport will handle approximately 53 million passengers. As far as air cargo is concerned, new freight facilities are expected to more than double air cargo passing through Frankfurt from its current level of 1.2 million metric tons. Unquestionably—particularly under an open-skies regime—Frankfurt represents an attractive option for U.S. carriers who are frustrated by their inability to gain or expand access at Heathrow.

There also are other important air service opportunities elsewhere in Germany. Last year, 8.3 million international passengers passed through the airport in Munich. Plans by Lufthansa to make Munich its second largest hub, including using it as a gateway for some Asia-Pacific service, should spur additional international passenger growth at the airport. An additional option is Dusseldorf's Rhine-Ruhr Airport which last year served 10.3 million international passengers.

A United States-Germany open-skies agreement undoubtedly will foster additional growth in the number of international passengers using the airports in Frankfurt, Munich, and Dusseldorf. Also, it could accelerate construction of a planned new airport in Berlin. The new Berlin-Brandenburg airport would offer yet another gateway opportunity for U.S. carriers.

Mr. President, as I have said on other occasions in statements to this body, we must continue pressing for a liberalized air service agreement with the United Kingdom. We owe that to consumers on both sides of the Atlantic who unquestionably would be the biggest winners if such an agreement were reached.

Concurrently, however, I believe we should intensify our efforts to secure an open skies agreement with Germany. In combination with existing and emerging opportunities for United States carriers in continental Europe, such an agreement would put tremendous competitive pressure on the British to open Heathrow to United States carriers. Moreover, if the British doubt that the restrictive United States-United Kingdom bilateral agreement is forcing United States carriers to

overfly the United Kingdom to European continental airports, an open-skies

agreement with Germany that furthers the exodus of United States flights to the continent would dramatically make this point. If Britain does not want our business, clearly there are other nations who do.

Mr. President, may I proceed for 2 more minutes on the same subject?

The PRESIDING OFFICER. Is there objection?

No objection is heard. Without objection, it is so ordered. The Senator is recognized for 2 additional minutes.

Mr. PRESSLER. Mr. President, to summarize what I have said, as a chairman of the Commerce Committee and a member of the Aviation Subcommittee, I am very eager to see us move forward on efforts to liberalize our bilateral aviation agreement with the United Kingdom. I am very concerned about the problem of access to Heathrow and resulting limitations on the ability of our carriers to serve markets beyond the United Kingdom. Also, I am disturbed by British restrictions on the beyond rights of our cargo carriers. Similarly, I am also concerned about attempts by the Government of Japan to prevent our carriers from fully participating in the booming Asia-Pacific market beyond Tokyo.

Very frankly, what these countries try to do is they have a system to block out U.S. passenger and cargo carriers as well as to prevent our carriers from serving beyond markets. I believe we should put the emphasis on jumping over Heathrow if the British are unwilling to cooperate by opening their skies to United States carriers. I have urged our Secretary of Transportation, Secretary Peña, who I think does a good job in international aviation negotiations, to treat international aviation as a trade issue and to focus on maximizing economic benefits for our country. I understand this is very difficult for Secretary Peña to do since each time he attempts to follow this course, a group of Senators and Representatives who represent a certain airline criticize what he is doing. We have to support our Secretary of Transportation when he is trying to negotiate these difficult agreements. We need to put the interests of the U.S. economy first.

The situation with the British is very frustrating and unacceptable. Britain is dragging its feet on liberalizing our air service agreement. They are stalling. I think we should make it very clear to the British if they continue to severely restrict opportunities for our carriers to serve the United Kingdom and points beyond, United States passenger and cargo carriers will turn to Germany and Amsterdam and other points in Europe. I would hope that continued progress in liberalizing our aviation relations with countries in continental Europe, and the continued exodus of United States carriers to capitalize on these opportunities, will drive home this point. Simply put, our carriers are not being treated fairly by

the British. Unfortunately, the same is true in Japan where the Government of Japan is trying to prevent our carriers from fully participating in the rapidly expanding Asia-Pacific market.

I hope our Secretary of Transportation stands firm with the British and the Japanese. I support him, and I urge the Members of this body to do so. He is doing a good job in international aviation matters under difficult circumstances.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent to be able to continue as in morning business, not in reference to the pending business, but another matter, with the understanding that, if there is someone seeking recognition not under the same standard, then we return to a quorum call.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TRIBUTE TO YITZHAK RABIN

Mr. LEAHY. Mr. President, my wife and I were in California visiting my youngest son and his wife this past weekend. After what had been a very pleasant day out hiking and walking about, we came back to their home, and there were a series of messages for me from the White House and my chief of staff. I called back and heard the terrible news about Yitzhak Rabin. I was also asked if it would be possible to make the connection back to Washington in time to accompany the President and the others to Israel.

Mr. President, like so many millions of people, I turned to the radio and the television in disbelief. I hoped, even though the first news was so discouraging, that somehow he had survived the assassin's bullet. It seemed inconceivable that an old soldier who had survived so much, who had risked his life so many times, could be struck down this way, following a rally for peace.

Those unable to attend the ceremony in Jerusalem watched it and wept. For all the reasons said so eloquently by so many people—and I think of our own President, President Clinton, Jordan's King Hussein, the man who had a close personal relationship, one based on trust and respect, with Prime Minister Rabin, and Egypt's President Mubarak, and perhaps most of all Prime Minister Rabin's granddaughter Noa. We listened to them and know we will not forget Yitzhak Rabin.

Prime Minister Rabin was a man of great courage, of great vision, of great warmth, and, above all, great love for his country. In fact, for me it is almost impossible to think of Israel without thinking of him. My heart's hopes go out, not only to his family, but to Shimon Peres, who now takes on the awesome duties of Prime Minister at such a difficult time. To him I offer my support with the deep respect he knows I feel for him.

In remembering Prime Minister Rabin, it was his undying love for

Israel, his absolute commitment to Israel's survival, that enabled him to change course, to choose the path of peace in his final years. It was a choice and a challenge for all of us, but especially the people of the Middle East. It was a choice that was embraced by a majority of Israelis and Palestinians. It was spurned only by those too blinded by hate to see the historic opportunity that Yitzhak Rabin had seized.

Like so many others in the Senate, I was fortunate to know Yitzhak Rabin, for nearly a generation. I am going to miss him very, very much. I will miss that great and wonderful voice, and his strength and his wisdom which you could feel just standing next to him.

I had the privilege to accompany President Clinton to Aqabah last October, a year ago, for the signing of the Israeli-Jordanian peace agreement. I remember standing there in 110 degree heat, the wind blowing across the desert, as I listened to those two soldiers, Yitzhak Rabin and King Hussein, men who had fought against each other but who now stood with voices filled with emotion speaking of the need for peace.

I knew from my private conversations both with Prime Minister Rabin and with King Hussein that these were men who could rely totally and utterly on each other's words, on each other's commitment, on each other's integrity and on each other's ability for leadership. And when the ceremony ended and the grandchildren of those who had fallen in the war, Jordanians and Israelis, came and presented flowers to the leaders, you knew that it was the leadership of Yitzhak Rabin and those who joined with him made that moment possible.

Israel and the world have suffered a terrible and irreplaceable loss. We all remember the immeasurable loss after the assassination of President John Kennedy. I was not old enough to vote for President Kennedy. I was a student here in Washington when he died. And like everybody else who was old enough to know that day, I remember precisely where I was, exactly what I was doing, and the emotions I had at the time. And like so many other Americans, I wondered how we might go on.

I know that there are those same feelings in the minds of people in Israel today. But I do not fear for Israel because we can find hope in the outpouring of love and respect for Yitzhak Rabin's memory by Jews, by Arabs, by people of all faiths around the world, because more than anything, it was Yitzhak Rabin's commitment to peace that inspired that outpouring of love and respect. So many generations have yearned for it, but it was Yitzhak Rabin who defied the prejudice, hatred, and violence of the past to make it possible for us to believe that peace is possible in the Middle East. That was the message of the handshake on the White House lawn. It is our challenge and our